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DECISION TAKEN BY THE SECURITY COUNCIL COMMITTEE ESTABLISHED BY RESOLUTION 661 (1990) CONCERNING THE SITUATION BETWEEN IRAQ AND KUWAIT AT ITS 51ST MEETING, HELD ON 15 OCTOBER 1991

Procedures to be employed by the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait in the discharge of its responsibilities under Security Council resolutions 706 (1991) and 712 (1991)

I. Preparatory steps:

1. The Committee will select, upon recommendation by the Secretariat, three independent experts in international oil trade as "overseers" at United Nations Headquarters, and entrust them with the authority to approve or reject oil sale contracts on behalf of the Committee. The overseers will be authorized to correspond with applicants as needed. The nomination of three persons will ensure a 24-hour availability for contract approvals.

2. Other experts, agents and inspectors (as required below) will be appointed by the Secretary-General. The Committee will take note of these appointments.

3. States may, if they so wish, forward to the Committee a list of national oil purchasers (private companies, State-owned companies, State agencies, ministries, etc.) authorized to communicate with the overseer. Once the Committee has taken note of these lists and passed them on to the overseer, these purchasers are entitled to communicate directly with the overseer (see sect. II, part A, para. 3 below). If States do not submit such a list, or if a certain purchaser is not included in the list, the communication with the overseer must go via the Permanent Mission in New York.

4. For the purpose of section II, part A, paragraph 3 below, a Standard Application Form will be elaborated by the Committee and circulated among all States. States and national oil purchasers shall use only these Standard Application Forms.

5. The Secretariat will set up a new fax line to be used exclusively for correspondence with regard to oil transactions. Applicants are requested to send their relevant applications and relating correspondence only via this fax line. Other correspondence with the Committee shall go through the already existing channels.

6. Iraq and Turkey will have to conclude an arrangement on the price and payment modalities for the use of Turkish oil installations. Once this arrangement is concluded, it must be forwarded to the Committee which will take note of it. United Nations agents will check the implementation of this arrangement and report periodically to the Committee.

7. Monitoring of delivery to Iraq of foodstuffs, medicines, and materials and supplies for essential civilian needs will be done by independent inspection agents appointed by an appropriate United Nations programme or organization, such as, for example, the Office for Project Services (OPS). Monitoring of the distribution of these goods will be arranged by the Executive Delegate in cooperation with relevant United Nations programmes and organizations, including appropriate humanitarian non-governmental organizations (NGOs). The Committee will be informed about the relevant arrangements, including those for the purpose of section III, part A, paragraph 11 below.

8. Upon recommendation by the Secretariat, the Committee will nominate an expert (a staff member of one of the United Nations programmes or organizations) who will act as an aide to the Committee for the purposes of section III, part A, paragraph 8 below.

II. Sales of Iraqi oil and oil products:

A. Sales of Iraqi oil:

1. The Iraqi State Organization for the Marketing of Oil (SOMO) signs a contract with the purchaser. The contract must include the provisions as specified in paragraph 58 of the report by the Secretary-General pursuant to paragraph 5 of Security Council resolution 706 (1991) (S/23006).

2. United Nations agents at SOMO review the contracts to assure compliance with the provisions of paragraph 58 of the Secretary-General's report and forward by fax copies of the approvable contracts, supporting documents, and their independent reports to the overseer in New York.

3. The national oil purchaser or the Permanent Mission of the State of purchase forwards by fax a formal request (Standard Application Form) for approval to the Committee, together with a copy of the contract and all other supporting documents.

4. The overseer reviews the contract and supporting documents to ensure that:

   - they comply with paragraph 58 of the Secretary-General's report, including that a confirmed irrevocable letter of credit is opened providing for payment into the escrow account;

   - the conditions of payment envisaged in the letters of credit are in conformity with existing market practices;

   - they do not appear to contain any attempt at fraud or deception;

   - the transaction's pricing is consistent with world prices and market trends; and

   - the transaction does not exceed the limits imposed by Security Council resolutions 706 (1991) and 712 (1991).

5. If the contract and supporting documents are found to be in order, the overseer, on behalf of the Committee, approves the sale (within the shortest period of time possible, at the maximum 24 hours) and informs by fax the national oil purchaser or the Permanent Mission concerned, as well as SOMO.

6. The overseer sends his notification of sales approval, together with a copy of the contract, supporting documents, and the report of the United Nations agent at SOMO, by fax to the inspector at Ceyhan who will authorize loading only after these documents are in his possession.

7. Depending on the number of applications, the overseer reports to the Committee, in a structured and standardized manner, at least twice a week on contracts approved by him (including the cumulative quantity and value of oil authorized for export), and informs the Secretary-General accordingly.

8. The oil is pumped into storage tanks. Agents at the pipeline check the pumping. Subject to their confirmation, the oil can be loaded on ships and the ships can leave the terminal. The agents will have the authority to prohibit the delivery of the oil if there is any evidence of irregularity.

9. The agents report to the Committee on their assessment of the pumping and loading.

10. The purchaser makes payment into the escrow account.

11. Twice a week, the Secretary-General forwards statements of the escrow account, including outlines of anticipated future obligations, to the Committee.

B. Sales of Iraqi oil products:

The regime for the sale of oil products will be broadly similar to that described above, but the precise arrangements will be elaborated at a later stage, as and when the need arises.

III. Purchase by Iraq of foodstuffs, medicines, and materials and supplies for essential civilian needs:

A. Purchase by Iraq of foodstuffs, medicines, and materials and supplies for essential civilian needs, to be financed from the escrow account:

1. Iraq sends a categorized list of relevant requirements to the Executive Delegate. (Preferably, a two-months list, quantity- and value-oriented.) If Iraq intends also to finance medicines from the escrow account, these too should be mentioned in general terms on the list, together with their value. The overall value of the list must not exceed that part of the amount authorized by the Committee, in accordance with paragraph 2 of Security Council resolution 712 (1991), which is available for humanitarian purchases.

2. The Executive Delegate forwards the list, revised by him if necessary, to the Committee.

3. The Committee takes action on the list and forwards to the Secretary-General and the Executive Delegate the list as approved. (The first list will be taken up at a meeting of the Committee; subject to agreement, later lists might be dealt with under a "no-objection" procedure.)

4. The Secretary-General will make the list known to all States.

5. The Executive Delegate informs Iraq about the clearance.

6. Iraq signs a contract with the exporter, in accordance with normal commercial practice and the relevant Security Council resolutions.

7. (a) Medicines:

The Permanent Mission of the exporter's country informs the Committee of the exporter's wish to be paid from the escrow account. A copy of the relevant contract must be attached to this communication.

(b) Foodstuffs:

The Permanent Mission of the exporter's country notifies the Committee. This notification must contain the information that the exporter wants to be paid from the escrow account. A copy of the relevant contract must be attached to this notification.

(c) Materials and supplies for essential civilian needs:

The Permanent Mission of the exporter's country requests approval, under the "no-objection" procedure, by the Committee. This request must contain the information that the exporter wishes to be paid from the escrow account. A copy of the relevant contract must be attached to this request.

8. An expert (aide to the Committee) checks the contracts, in particular on the price/value relationship, and informs the Chairman. His findings will be attached to the circulation note to Committee members.

9. (a) Medicines:

(i) If the contract is found in order, the Committee informs the Permanent Mission concerned and the Secretary-General that the contract has been found in order, i.e. the exporter can expect payment from the escrow account.

(ii) If the contract is not found in order, the Committee informs the Permanent Mission concerned and the Secretary-General that the contract has not been found in order, i.e. the exporter cannot expect payment from the escrow account. However, medical supplies can be shipped anyway if the exporter so wishes.

(b) Foodstuffs:

(i) If the contract is found in order, the Committee takes note of the notification and informs the Permanent Mission concerned and the Secretary-General accordingly and states that the contract has been found in order, i.e. the exporter can expect payment from the escrow account.

(ii) If the contract is not found in order, the Committee takes note of the notification and informs the Permanent Mission concerned and the Secretary-General accordingly but states that the contract has not been found in order, i.e. the exporter cannot expect payment from the escrow account. However, foodstuffs can be shipped anyway if the exporter so wishes.

(c) Materials and supplies for essential civilian needs:

(i) If the contract is found in order, and if the Committee approves the shipment under the "no-objection" procedure, it informs the Permanent Mission concerned and the Secretary-General of the approval and states that the contract has been found in order, i.e. the exporter can expect payment from the escrow account.

(ii) If the contract is not found in order, and if the Committee nevertheless approves the shipment under the "no-objection" procedure, it informs the Permanent Mission concerned and the Secretary-General of the approval but states that the contract has not been found in order, i.e. the exporter cannot expect payment from the escrow account. However, the goods can be shipped anyway if the exporter so wishes.

(iii) If the Committee cannot approve the shipment, whether or not the contract is found in order, the goods are not allowed to be shipped.

From here on only if the contract has been found in order:

10. The Secretary-General may effect part-payment to the exporter, according to commercial practice.

11. United Nations agents check the delivery (the quality, quantity, labelling, etc.) at the unloading port and the entry points to Iraq and report to the Committee. The agents will have the authority to inspect the shipment documents and, if necessary, to open and examine the contents as needed.

12. The Committee evaluates the reports. If satisfactory, it approves the final payment and informs the Secretary-General.

13. The Secretary-General effects final payment.

14. United Nations agents monitor in-country distribution and report, via the Executive Delegate, in a consolidated manner to the Committee.

15. The Committee evaluates these reports to ensure that equitable internal distribution is being maintained and takes appropriate action if not.

16. Twice a week, the Secretary-General forwards statements of the escrow account, including outlines of anticipated future obligations, to the Committee.

B. Purchase by Iraq of foodstuffs, medicines, and materials and supplies for essential civilian needs, to be financed from the sub-account of the escrow account:

1. According to paragraph 8 of Security Council resolution 712 (1991), imports financed from the sub-account of the escrow account, are, apart from the provision of paragraph 1 (c) of Security Council resolution 706 (1991), subject only to the provisions and procedures of paragraph 20 of Security Council resolution 687 (1991).

2. Monitoring (paragraph 1 (c) of Security Council resolution 706 (1991)) will be carried out as indicated in annex II of the Secretary-General's report.

3. Twice a week, the Secretary-General forwards statements of the sub-account of the escrow account, including outlines of anticipated future obligations, to the Committee.